

WITHDRAWN

ORDINANCE NO. R-2016-15

TAX CODE(S) 82-06-28-015-077.001-027

AN ORDINANCE TO REZONE CERTAIN REAL ESTATE IN THE CITY OF EVANSVILLE, STATE OF INDIANA, MORE COMMONLY KNOWN AS 700 BENNIGHOF AVENUE.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, AS FOLLOWS, TO WIT:

Section 1: That Ordinance no. G-82-51, being the Municipal Code of the City of Evansville, Indiana, 1982, and more particularly Title XV, Chapter 153, by making certain changes in Atlas 1, which is made part of said section with respect to the following described real estate located in the City of Evansville, Vanderburgh County, State of Indiana:

Parcel 1: Situated in the County of Vanderburgh and in the State of Indiana, to wit: Lots 1, 2 and 3 in Block 3 in Swanson Place, an Addition to the City of Evansville, as per plat thereof, recorded in Plat Book F, Pages 152 and 153 in the Office of the Recorder of Vanderburgh County, Indiana.

by changing the zoning classification of the above-described real estate from R-2 to R-3 w/UDC, and said real estate is hereby so rezoned and reclassified.

Section 2. The Director of the Area Plan Commission of Evansville and Vanderburgh County is hereby authorized and directed, upon the enactment and approval of this ordinance, to cause the change to be made on said Atlas 1 as set out in Section 1 of this Ordinance, and to make notation in ink thereon of reference to the number of this ordinance and the date of final publication of the amendatory ordinance after its passage and approval; however, failing to do so shall not invalidate this Ordinance.

Section 3. This ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and its publication as required by law, which publication is now ordered.

Section 4. The subject property herein rezoned shall be used and developed only in accordance with the use and development commitment which is incorporated as part of this Petition for Rezoning and recorded in the office of the Recorder of Vanderburgh County, Indiana on _____ at Instrument No.: _____. No improvement location permits shall be issued unless the proposed use is in compliance with said recorded use and development commitment.

Passed by the Common Council of Evansville, Indiana, on this ____ day of _____, 2016.

ATTEST:

President

City Clerk

Presented to me, the undersigned, City Clerk of the City of Evansville, Indiana, to the Mayor of said city, the ____ day of _____, 2016.

City Clerk

Having examined the foregoing Ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said Ordinance, and return same to the City Clerk this ____ day of _____, 2016, at ____ o'clock ____.

Mayor of the City of Evansville, Indiana

This instrument prepared by: Shannon S. Frank, Attorney, KAHN, DEES, DONOVAN & KAHN, LLP, 501 Main Street, Suite 305, Evansville, Indiana 47708 (Telephone: 812-423-3183).

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. *Shannon S. Frank*

FILED

APR 08 2016

Janice W. Winkler
CITY CLERK

USE AND DEVELOPMENT COMMITMENT

WHEREAS, the undersigned, GG Properties & Maintenance LLC, a Delaware limited liability company, is the Owner of certain real estate situated in the City of Evansville, Vanderburgh County, Indiana, commonly described as 700 Bennighof Avenue, Evansville, Indiana, more particularly described on Exhibit "A", attached hereto and by this reference made a part hereof (the "Real Estate"); and

WHEREAS, the Real Estate is currently classified as a Residential-2 District (R-2) zoning district under the Evansville Zoning Code and is so indicated on the zoning maps maintained by the staff of the Evansville-Vanderburgh County Area Plan Commission; and

WHEREAS, GG Properties & Maintenance LLC (the "Petitioner") has requested that the Real Estate be reclassified to zoning district Residential-3 District with a Use and Development Commitment (R-3 w/UDC); and

WHEREAS, Petitioner is desirous of accommodating the concerns of the surrounding property owners by making a written commitment concerning the use and development of the Real Estate pursuant to I.C.36-7-4-1015;

NOW, THEREFORE, in consideration of the foregoing, Petitioner makes the following use and development commitments concerning the use of the Real Estate:

1. Restricted Use. The Real Estate shall contain no more than six (6) apartment dwelling units.
 2. Term. The commitments and undertakings herein made and expressed shall terminate, expire and be of no further force or effect if the Real Estate should be rezoned due to the filing of some subsequent petition to amend the zoning classification of the Real Estate.
 3. Effective Date. This Commitment shall be recorded in the office of the Recorder of Vanderburgh County, Indiana, and shall take effect upon the adoption of the zoning classification of the Real Estate from R-2 to R-3 Zoning District.
 4. Binding Effect; Enforcement; Attorneys' Fees. All commitments and undertakings herein expressed shall be binding on the Owner and the Owner's heirs, legal representatives, successors and assigns, and shall run in favor of the Area Plan Commission of Evansville-Vanderburgh County and all the owners of real estate lying within the radius of one (1) mile from the Real Estate herein described and shall be enforced by invoking any legal, equitable or special remedy, including specific performance, injunction or other equitable relief pursuant to the manner of enforcement as set forth in I.C. and 36-7-4-1015. If it is necessary to initiate administrative or judicial proceedings to enforce any such commitment or undertaking, the person or entity obtaining enforcement in such proceedings shall also recover its reasonable attorneys' fees and costs of suit from the undersigned.
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The person executing this instrument on behalf of Owner and Petitioner represent and warrant that the execution and delivery of this instrument is duly has been duly authorized and shall be binding upon the same.

IN WITNESS WHEREOF, this Use and Development Commitment is hereby made and entered into this 5th day of April, 2016, for the purposes set forth herein.

GG PROPERTIES & MAINTENANCE LLC

By: [Signature]
signature

Its: GYNETH JANE GIBBS, MGR
printed name and title

“Petitioner”

STATE OF INDIANA)
COUNTY OF VANDERBURGH) SS:

Before me, a Notary Public in and for said County and State, personally appeared the within named GYNETH JANE GIBBS, as MANAGER of GG Properties & Maintenance LLC and acknowledged the execution of the above and foregoing to be the voluntary act and deed of said company.

WITNESS my hand and seal this 5th day of APRIL, 2016.



SHANNON S. FRANK
Resident of Vanderburgh County, IN
Commission Expires: November 6, 2016

[Signature]
Notary Public

My Commission Expires:

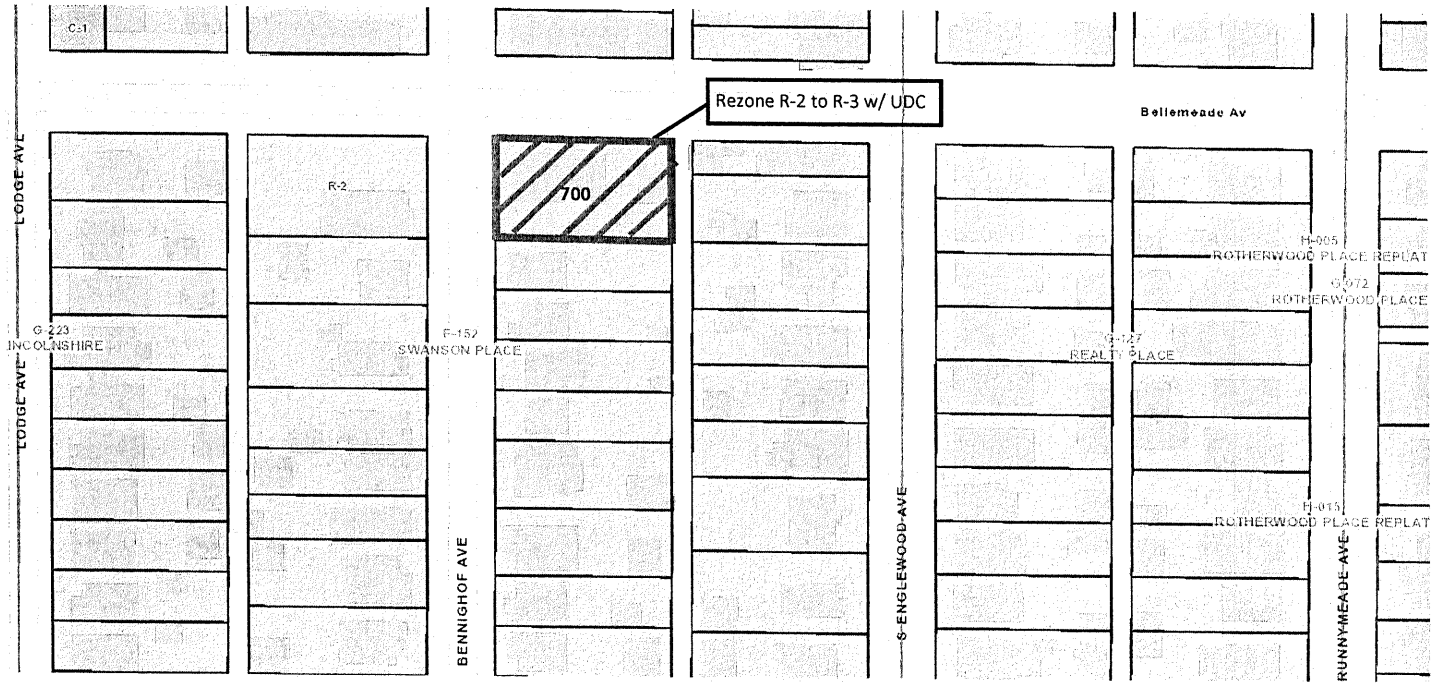
Printed Name
My County of Residence:

This instrument prepared by: Shannon S. Frank, Attorney, KAHN, DEES, DONOVAN & KAHN, LLP, 501 Main Street, Suite 305, Evansville, Indiana 47708 (Telephone: 812-423-3183). [#342286]

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. *Shannon S. Frank*

EXHIBIT "A"

Situated in the County of Vanderburgh and in the State of Indiana, to wit: Lots 1, 2 and 3 in Block 3 in Swanson Place, an Addition to the City of Evansville, as per plat thereof, recorded in Plat Book F, Pages 152 and 153 in the Office of the Recorder of Vanderburgh County, Indiana.



WITHDRAWN

VERIFIED PETITION FOR REZONING

2016-13

-PC

ORDINANCE NO. R- 2016-15

COUNCIL DISTRICT: Ward 4; Constance Robinson

PETITIONER GG Properties & Maintenance LLC

PHONE 812-204-8929

ADDRESS 3644 State Route 351 E, Henderson, Kentucky

ZIP CODE 42420

OWNER OF RECORD GG Properties & Maintenance LLC

PHONE 812-204-8929

ADDRESS 3644 State Route 351 E, Henderson, Kentucky

ZIP CODE 42420

- Petition is hereby made for the amendment of the "Zoning Maps" of the Area Plan Commission of Evansville and Vanderburgh County, pursuant to the Indiana Code and the Municipal Code of Evansville.
- Premises affected are on the South side of Bellemeade Ave a distance of +/- 25 feet (N.S.E.W.) of the corner formed by the intersection of Bellemeade Ave and Bennighof Ave.
Registered Neighborhood Association (if applicable) Lincoln-Bellemeade and University South

LEGAL DESCRIPTION:

SUBDIVISION See Attached Legal Description

BLOCK

LOT NO.

(where applicable - if not in a subdivision, insert legal here or attach to ordinance)

- The commonly known address is 700 Bennighof Ave
- The real estate is located in the Zone District designated as R-2
- The requested change is to (Zone District) R-3 with Use and Development Commitment
- Present existing land use is Apartments
- The proposed land use is Apartment Dwelling Units
- Utilities provided: (check all that apply)
City Water ☒ Electric ☒ Gas ☒ Storm Sewer ☒
Sewer: Private ☐ Public ☒ Septic ☐
- All attachments are adopted by reference.
- The owner, or attorney for the owner, hereby certifies that the owner of record shown above owns 50% or more of the area of the above described real estate. I affirm under the penalties for perjury that the foregoing representations are true.

(REQUIRED) Signatures:

DATE 4/5/2016
(when signed)

PETITIONER [Signature]
PRINTED NAME GG Properties & Maintenance LLC

DATE 4/5/2016
(when signed)

OWNER OF RECORD [Signature]
PRINTED NAME GG Properties & Maintenance LLC

REPRESENTATIVE FOR PETITIONER
(Optional)

NAME Kahn, Dees, Donovan & Kahn, LLP

ADDRESS/ZIP 501 Main Street, Suite 305, Evansville, IN 47708

PHONE 812-423-3183

FILED

APR 08 2016

[Signature]
CITY CLERK

LEGAL DESCRIPTION

Situated in the County of Vanderburgh and in the State of Indiana, to wit: Lots 1, 2 and 3 in Block 3 in Swanson Place, an Addition to the City of Evansville, as per plat thereof, recorded in Plat Book F, Pages 152 and 153 in the Office of the Recorder of Vanderburgh County, Indiana.

LODGE

R-2

R-3

C-1

BENNIGHOF

BELLEMEADE

Rezone R-2 to R-3 w/UDC

LODGE

ENGLEWOOD

RUNNYMEADE

BAYARD PARK

SOUTHEAST

R-1

LANT

GG PROPERTIES & MAINTENANCE, LLC
3644 State Route 351 E
Henderson, Kentucky 42420

June 3, 2016

HAND DELIVERED

Mr. Ronald S. London
Executive Director
Evansville-Vanderburgh County Area Plan Commission
1 N.W. Martin Luther King Jr. Blvd.
Civic Center Complex Room 312
Evansville, Indiana 47708

RE: Property Address: 700 Bennighof Ave, Evansville, Indiana
Parcel ID: 82-06-28-015-077.001-027
Docket Number: City Rezoning 2016-13-PC / R-2016-15

Dear Mr. London:

We hereby withdraw our Verified Petition for Rezoning of the above-described Property. We confirm our understanding that by withdrawing of this Petition we are prohibited from submitting another petition to rezone the Property for a period of one-year from the date hereof.

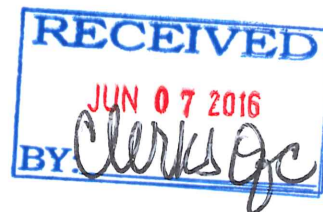
Should you have any questions or require additional information, please contact attorney Shannon S. Frank, Kahn, Dees, Donovan & Kahn, LLP, at 501 Main St., Suite 305, Evansville, Indiana 47708, by Telephone: (812) 423-3183 or by email: sfrank@kddk.com.

Very truly yours,

GG PROPERTIES & MAINTENANCE, LLC

By: *Karen Johnston*
Gyneth Jane Gibbs on behalf
POA

cc: Karen Johnston
Shannon S. Frank
Constantine Robinson



RECEIVED
JUN 03 2016
AREA PLAN COMMISSION